After the discovery of valuable minerals, and the expenditure of at least $500 in labor or improvements in the development of a claim, the owner may apply to the Bureau of Land Management for a patent. BLM Circular 1941 covering lode and placer regulations and the pamphlet entitled, "Information Relative to the Procedure for Obtaining Patent to a Mining Claim", contain information with respect to patenting of claims. An application properly filed and based on a valid discovery will usually require from 12 to 18 months for processing, depending on the prior work load in the office when the application is filed. There is no established form designed for making an application for patent. Obtaining a mineral patent is not an inexpensive process. It requires payment for a mineral survey if a lode claim, deposit of the purchase price upon filing the application, publishing costs, and possibly attorney's and other fees.

Recording Notice of Location in Land Offices:

There is no general requirement in the Federal law for recording notices of mining locations in the Land Office. However, Public Law 359 (69 Stat. 381), which opened certain lands in withdrawals made for power purposes to location, requires that notices of location of claims on lands in power withdrawals be recorded in the Land Office within 60 days from the date of location. The regulations in Circular 2007 govern the location of mining claims under Public Law 359. This law also requires that the claimant shall file a statement in the Land Office as to the assessment work done or improvements made on such claims during the previous assessment year.

The Land Office records will not show previous mining locations unless an application to patent a mining claim has been filed or unless a notice of location has been filed in accordance with Public Law 359. State of California law requires that notices of location of claims be recorded in the county in which the claim is located. County records will show whether previous locations have been made, but they are shown by the name of the claimant or of the claim itself.

Use of a Mining Claim:

The mining law permits the miner to make reasonable use of the land before a patent is granted, as long as this use is connected with mining. However, an erroneous impression sometimes exists to the effect that the act of staking a mining claim is the shortest road to obtaining a site for a summer residence or for a week-end recreational spot where one can pan "a little gold for the fun of it."

Unpatented mining claims must be used for mining purposes only and the mining claimant is cautioned against using the claim for other than legal and lawful mining activities. Since a mining locator has merely a possessory interest in the location, the United States has a reversionary interest in the claim, which it has a right to protect against waste and unlawful use. Any use of the surface of an unpatented claim for purposes unrelated to or foreign to mining is unauthorized and, therefore, in trespass. The liability is the same as for trespass committed on other public lands, unaffected by the question of whether the claim is valid or invalid, and the measure of damages is from the inception of the wrongful occupancy. Unauthorized use (trespass), on mining claims, can become a very serious problem for the user, particularly when a person may place improvements valued at many thousands of dollars on an unpatented claim. Such a person stands to lose all his investment because of such trespass action.

Sales and Other Disposition to Residential Occupants of Unpatented Mining Claims:

In some instances, persons have staked or bought claims and have lived for many years on the lands without making a discovery of valuable mineral. In other instances, mining claims that could have qualified for patent at one time have been mined out and are, therefore, no longer valid. In still other instances, persons unfamiliar with the mining laws have purchased quitclaims to unpatented claims under the impression that they are buying a "fee title" (full title) to the lands.

THE MINING CLAIMS OCCUPANCY ACT

During the 87th Congress, on October 13, 1962, Public Law 87-851 (76 Stat. 1127), popularly called the Johnson-Church Act, was passed and makes it possible under certain circumstances for some persons living on an unpatented mining claim to acquire an interest in the lands. A five year period, or until October 23, 1967, has been provided for people to apply for the privileges under the Act. A residence must have been in existence on October 23, 1962, and the land must have been used for residence purposes at least from July 23, 1955. A brochure entitled, "The Mining Claims Occupancy Act" is available upon request.

IN SUMMARY, only if the people are fully informed about their rights and about the requirements of the law and the regulations can they be sure their interests are fully protected -- and the Bureau of Land Management effectively perform its public service responsibility.

References:

Legal Guide for California Prospectors and Miners, Division of Mines and Geology, Ferry Building, San Francisco, California (Price $1).

Mineral Information Service, Division of Mines, State of California, Number 12, Volume 13, December 1960

Circular 1941 and amendments.

Circular 2007

"Information Relative to the Procedure for Obtaining a Patent to a Mining Claim", a BLM pamphlet.

Bureau of Land Management
Offices in California

State Director

Bureau of Land Management
U. S. Courthouse—Federal Building
650 Capitol Mall
Sacramento, California 95814

Bakersfield District
223 Chester Avenue
Bakersfield, Calif.

Ukiah District
168 Washington Ave.
Ukiah, Calif.

Sacramento District
650 Capitol Mall
Sacramento, Calif.

Redding District
2460 Athens Street
Redding, Calif.

Susanville District
5th & Cedar Streets
Susanville, Calif.

Riverside District
1414 Eighth Street
Riverside, Calif.

Land Offices
Riverside and Sacramento

GPO 967-228

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ING CLAIMS ON THE PUBLIC DOMAIN?

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WHAT ABOUT MINING CLAIMS ON THE PUBLIC DOMAIN IN CALIFORNIA?

This information is intended primarily for those who intend to invest in, buy, sell, or in some way take some action that would involve unpatented mining claims located on the public lands of the United States.

Check The Land Office Records:

Before any substantial investment of time or money is expended upon a mining claim, it is good business for a prospector to carefully check the status of the land on which he has located his claim. The land status records maintained in the Land Offices of the Bureau of Land Management are one of the prospector's most important tools; equally important as his pick and shovel. Even though the lands may be within the public domain, they may be withdrawn from mining location. A withdrawal may be made for a wide variety of purposes, such as Defense Department training areas, national parks and monuments, power sites, Indian reservations, and for reclamation purposes. A withdrawal usually closes the lands to entry under the public land laws. However, the important thing for miners and prospectors to remember is that not all public lands are open to mineral location.

It is not advocated that prospectors attempt to obtain detailed information on every piece of land they look at. It is urged, however, that before any large investment of money or labor is made on an unpatented claim that a prospector carefully determine whether the land is open to location. Failure to do this may result in the loss of a substantial investment. By checking the official records, a prospector can protect his investment and avoid what might be a costly error.

Checking Land Office records is usually quite time consuming. For this reason, and in acknowledgment of the press of other business of the office, the Land Office cannot furnish elaborate status to the public by phone or letter. Land Office personnel, however, will assist and orient the public in the use of the records.

The Land Offices are open to the public for filing of documents and inspection of records weekdays; Monday through Friday from 10 a.m. to 3 p.m. In California, there are two BLM Land Offices:

SACRAMENTO	RIVERSIDE
650 Capitol Mall	1414 Eighth Street
Sacramento, California	Riverside, California

Discovery:

Anyone planning to locate a mining claim on the Public Domain should, of course, fully inform himself about what is necessary to locate and maintain a claim. Briefly stated, all rights to a claim stems from **discovery** of a valuable mineral deposit. To constitute a valid discovery on a lode claim, for example, there must be actually and physically exposed within the limits of the claim a vein or lode of mineral-bearing rock in place, possessing in and of itself a present or prospective value for mining purposes. In order for the location to be valid, there must be a discovery of mineral within the limits of the claim and the discovery must be such as would justify a person of ordinary prudence in the further expenditure of time and money, with reasonable prospect of success in developing a profitable mine. Neither the discovery of an isolated bit of mineral not connected with or leading to substantial prospective values, nor geologic inference as to what might be discovered at greater depths constitutes sufficient discovery. A mere surface indication or belief in the existence of mineral does not amount to a discovery.

Exploration Costs of Small Mines:

Mining is not a week-end entertainment nor a hobby to be undertaken upon retirement. To the contrary, mining is a serious business requiring considerable metallurgical experience to determine if the valuable minerals found can be "profitably extracted" and if the material is actually "ore". If the samples show that ore has been found a development program can be planned; and, if capital is available, this plan can be put into operation.

The wise prospector, after he has had an indication of the possibility of an ore deposit, before he proceeds further, will obtain the services of a competent mining engineer or mining geologist. When the recommended preliminary work has been completed, such as trench sampling, test pitting and minor drilling, the information obtained must be carefully appraised. If the drilling has shown that no valuable minerals are likely to be found, the claim should he abandoned.

The minimum cost of a semi-permanent installation which can he used, with some addition, for production is estimated at about $3,500. Under good supervision and favorable conditions, the total cost may be reduced. However, under poor supervision or adverse conditions, the cost will be considerably higher. These cost figures although derived in part from actual small mine operations, are merely broad guidelines.

Many good small mines fail because there is not enough capital available for development, equipment, payroll, and supplies.

Working capital of at least $5,000 is necessary to permit the mine to carry through the early stages to the period of profitable return. This means that adequate financing should be available before exploration of the mine starts.

Mining Claim Locators:

There are frequent inquiries received by the Land Offices about the so-called mining claim "locators", filing services, and assessment companies. Such locators or assessment companies are people or businesses who, for a fee, perform various services for the mining claimant or persons who desire to posses a claim. None of these people or businesses are licensed or regulated by the Federal Government. Such locators or companies receive no special or "inside" information or service from the Bureau of Land Management that is not available to anyone else. Whether a person wishes to hire an individual or company to assist him in the development of a claim and possibly subsequent filing for a mineral patent, is strictly a matter of choice of the individual. All public information, data, records and other materials which are available to mineral land locators and assessment companies are also available to anyone else who may need them.

The California Real Estate Code amendment of July 28, 1959, requires a real estate license of any person other than officers or employees of the State or Federal Governments, who for a compensation or in expectation of a compensation, assists or offers to assist another or others in filing an application for the purchase or lease of or in **locating** or entering upon lands owned by the State or Federal Government (Business and Professions Code, Section 10131 (c).

Patenting a Mining Claim:

The Federal Mining Laws have been enacted and administered down through the years under a congressional policy designed to encourage private individuals to go into the public domain to prospect, explore, and develop mineral resources.

The assurance of ultimate private ownership of the minerals and lands prospected and developed by the miner has been one of the major incentives for mining activities. Under the Federal Mining Laws, a prospector may go on public land not otherwise withdrawn, locate a mining claim, search out its wealth, and if a discovery of mineral is made, later make application to patent the land. Patenting of a claim is, **however,** optional. As long as there are minerals, a valid location may be held indefinitely as an unpatented claim.